Annexure B-2
(Restrictions on public procurements from bidders of such country/ countries which shares a Land Border with India)

BENGALURU METROPOLITAN TRANSPORT CORPORATION

CENTRAL OFFICES, STORES & PURCHASE BRANCH,

SHANTHINAGARA: BANGALORE: 560 027

Sub: Procurement of Oxygen Gas Cylinder and Dissolved Acetylene Gas Cylinder.

Ref: Tender No.BMTC/2024-25/IND0130.

In addition to the prequalification criteria, evaluation criteria and other terms & conditions specified in Annexure-B and Annexure-B-1, the following Eligibility Clauses and Sub Contract Clauses have been incorporated in the tender as per the GoI Letter No. F.No. 6/18/2019 -PPD dtd: 23.07.2020, Orders (Public Procurement No. 1 and 2) dated 23.07.2020 & Order (Public Procurement No. 3) dated 24.07.2020, Orders of GoK vide No. FD 455 Exp-12 2020 Bengaluru Dated: 25.08.2020, GoI OM vide No. F.No. 18/37/2020-PPD dtd: 08.02.2021 and O.M No. F.12/1/2021 – PPD)Pt), dated: 02-03-2021 and GoK circular vide No. FD 455 Exp-12/2020 Bengaluru Dtd: 25-08-2020, FD 455 Exp-12/2020 Bengaluru Dtd: 10.03.2021 and FD 455 Exp-12/2020 Bengaluru Dtd: 29.03.2021.

Sl. No.	**Clauses**
1	Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority.
1.1	“Bidder” (including the term ‘tenderer’, ‘consultant’ or ‘service provider’ in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by

	such person, participating in a procurement process.
1.2	"Bidder from a country which shares a land border with India" for the purpose of this Order means: - a. An entity incorporated, established or registered in such a country; or
	b. A subsidiary of an entity incorporated, established or registered in such a country; or
	c. An entity substantially controlled through entities incorporated, established or registered in such a country; or
	d. An entity whose beneficial owner is situated in such a country; or
	e. An Indian (or other) agent of such an entity; or
	f. A natural person who is a citizen of such a country; or
	g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above
1.3	The beneficial owner for the purpose of above clause will be as under: (i) In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means. Explanation – a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent. Of shares or capital or profits of the company; b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements;
	(ii) In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
	(iii) In case of an unincorporated association or body of individuals,

	the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;
	(iv) Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
	(v) In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
1.4	An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
1.5	A certificate for having read the above clauses is required to be submitted/ and uploaded by the tenderer separately as per format at Declaration – III (to be downloaded and uploaded to the e-procurement portal duly signed and attached to hard copies of the tender documents.
1.6	In case of Work contract including turnkey contract. The successful bidder will not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority. A declaration to be submitted during submission of tender as per Declaration – III.
1.7	(i) A bidder is permitted to procure raw material, components, subassemblies etc. from the vendors from countries which shares a land border with India. Such vendors will not be required to be registered with the Competent Authority, as it is not regarded as "sub-contracting". (ii) However, in case a bidder has proposed to supply finished goods procured directly/ indirectly from the vendors from the countries sharing land border with India, such vendor will be required to be registered with the Competent Authority. (iii) **Procurement of Spare parts and other essential service support like Annual Maintenance Contract (AMC)/**

	Comprehensive Maintenance Contract (CMC) including consumables for closed systems, from original equipment Manufacturers (OEMs) or their Authorized agents, shall be exempted from the requirement of registration.

In this regard, the bidders are requested to download the Declaration-III (Compliance Certificate regarding restrictions on public procurements from bidders of countries which shares a Land Border with India) and to be uploaded to e-procurement portal duly sealed and signed and also, the same to be attached along with hard copies of the tender documents.